

Administration

Employee
Responsibilities

Outside Activities:
Testimony

OVERVIEW:

- .01 An employee may not testify about any business-related matter pertaining to an official position of the Laboratory, the University of California, or the United States Government without special approval; nor may an employee be hired to testify as an expert witness without special approval.

DEFINITIONS:

Official Testimony

- .02 Official testimony constitutes instances where employees testify as Laboratory officials, either voluntarily or pursuant to a subpoena, when the appearance promotes the legal interests of the Laboratory, the University of California, or the United States Government or when the failure to appear subjects the Laboratory, the University, or the United States Government to a legal risk.

NOTE: Testifying as an official custodian of Laboratory records is official testimony.

Unofficial Testimony

- .03 Unofficial testimony constitutes instances where employees testify on matters of personal knowledge or opinion, either voluntarily or when compelled when the appearance does not promote a legal interest of the Laboratory, the University of California, or the United States Government or when the failure to appear does not subject the Laboratory, the University, or the United States Government to a legal risk.

SPECIAL APPROVALS:

Official Testimony

- .04 **Voluntary** — Employees volunteering official testimony before a court, board, commission, committee, or other legislative or executive body must receive approval from the Director before testifying. The employee prepares a memorandum, not a Form 701 (Outside Activity Permission Request Form), to be forwarded through line management, that includes

The identity of the organization and persons taking testimony,

Outside Activities: Testimony

The purpose of the testimony,

The circumstances surrounding the invitation to testify,

When and where the testimony is to be given, and

Either a copy of the prepared testimony or an outline of the proposed testimony.

- .05 Approval should be requested at least 10 working days in advance. In emergency situations, approval by telephone may be granted with a memorandum to follow for the file.

EXCEPTION: Persons called to testify as official custodians of Laboratory records coordinate their appearance with line management and Laboratory Counsel (LC) only.

- .06 **Subpoenaed** — Employees who are subpoenaed for official testimony must provide LC with a copy of the subpoena and make an appearance only upon advice of LC.

Unofficial Testimony

- .07 Unless appearing as an expert witness, no special approval is required for unofficial testimony. However, appearing as an expert witness for a party other than the Laboratory, the University of California, or the United States Government is considered consulting and requires the completion and approval of a current Form 701. See [AM 716](#), “*Outside Employment: Employee Responsibilities*”, for approval procedures and limitations on consulting.

Questions

- .08 Questions regarding obtaining approvals should be referred to LC.

LABORATORY TIME, PERSONNEL, FACILITIES, AND EQUIPMENT:

- .09 Employees presenting official testimony may use Laboratory time, personnel, facilities, and equipment in the preparation of their testimony.

Outside Activities: Testimony

- USE OF A DISCLAIMER:** .10 Employees presenting unofficial testimony should avoid any impression that the information or opinions they are expressing represent an official position or opinion of the Laboratory, the University of California, or the United States Government. It is recommended that, at a minimum, employees disclaim any official status by prefacing their oral testimony with the following:
- “This testimony is being presented in my capacity as a private citizen and not as a representative of the Los Alamos National Laboratory, the University of California, or the United States Government.”
- .11 If possible, the disclaimer should be made an exhibit to the recorded testimony as well.
- USE OF INFORMATION:** .12 Disclosure of privileged or classified information is prohibited except to those individuals legally entitled to or authorized to receive such information. See [AM 702](#), “Security”, and [AM 721](#), “Conflicts of Interest: Privileged Information”.
- REPORTING TESTIMONY TIME:** .13 See [AM 321](#), “Court Leave and Jury Duty.”
- DISCIPLINE:** .14 Failure to comply with provisions regulating testimony may result in discipline, up to and including termination.